

THE HON'BLE MS. JUSTICE G. ROHINI

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WRIT PETITION No. 24610 of 2004

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DATED: 24-11-2005

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Between:

R. Sailu, son of Kistaiah,  
Aged 53 years, Occ: Private Teacher,  
Nizamabad District .....Petitioner

AND

1.The District Collector,  
Nizamabad District and two others

....Respondents

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**WRIT PETITION No. 24610 of 2004**

**ORDER:**

The petitioner claims to be the owner of a plot situated in Survey No. 532 on the Main Road of Yellareddy, admeasuring 640 square yards and on a request made by him the Gram Panchayat granted permission for construction of a house in the said plot, vide proceedings dated 19.11.2004. In pursuance thereof when the petitioner started construction, the 3<sup>rd</sup> respondent-Forest Range Officer, Yellareddy obstructed and has been interfering with his possession without following due process of law. Hence, this writ petition seeking a declaration that the action of the 3<sup>rd</sup> respondent in obstructing the construction of the house in Survey No.532 as per the approved plan of the Gram Panchayat, Yellareddy is arbitrary and illegal.

The 3<sup>rd</sup> respondent-Forest Range Officer, Yellareddy filed a counter-affidavit stating that the petitioner is not the owner of the plot in Survey No.532 as claimed by him and the permission said to have been granted by the Gram Panchayat was not in accordance with law since the same was granted without taking into consideration the factual aspects. It is further stated that the land in question belongs to the Forest Department wherein a Forest Guard Quarter together with the courtyard towards southern side is existing since 1954. It is also stated that the Divisional Forest Officer, Kamareddy filed an appeal before the District Panchayat Officer, Nizamabad

against the permission granted by the Gram Panchayat, Yellareddy, dated 19.11.2004 and the District Panchayat Officer, Nizamabad having entertained the same, by order dated 10.01.2005 granted stay of construction. The proceedings are still pending before the District Panchayat Officer, Nizamabad and the writ petition suppressing all the said facts is misconceived and liable to be dismissed.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Forests.

As can be seen from the pleadings of the parties, it is clear that there is a dispute with regard to the title in respect of the land to an extent of 640 square yards situated in Survey No. 532. The only material placed by the petitioner before this Court is the permission granted by the Gram Panchayat, Yellareddy for construction of a house vide proceedings dated 19.11.2004. The said permission said to have been granted by the Gram Panchayat cannot be made basis to record any finding as to the title of the petitioner. At any rate, it is neither possible nor proper for this Court to make enquiry into the disputed questions of fact and no finding as to the title of the property in question can be recorded. It is for the parties to work out the appropriate common law remedy as available under law for declaration of title, if they so choose.

So far as the permission for construction granted by the Gram Panchayat, Yellareddy vide proceedings dated 19.11.2004 is concerned, the petitioner in his reply affidavit has stated that the Appeal preferred before the District Panchayat Officer was closed on 11.03.2005 on the ground of pendency of this writ petition.

Though the said order has not been placed before this Court, having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to the District Panchayat Officer to re-open the said appeal and to pass appropriate orders on merits after hearing the petitioner as well as the third respondent with regard to the sustainability of the permission granted by the Gram Panchayat, Yellareddy. Such exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall not proceed with any constructions on the land in question. No costs.

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24.11.2005

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